

AMENDED IN ASSEMBLY JUNE 26, 2012
AMENDED IN ASSEMBLY JUNE 12, 2012
AMENDED IN ASSEMBLY APRIL 25, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2564

Introduced by Assembly Member Ma

February 24, 2012

An act to amend Sections 21080.21, 21100.2, and 21168.6 of, and to add Section 21063.5 to, the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2564, as amended, Ma. Environmental quality: pipelines: project applicants.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA exempts a project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline, as defined, or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline.

This bill would also except from CEQA a pipeline project of less than 8 miles in length, but would restrict this exemption to activities that do not take place along more than one mile at any one time. The bill would also revise the definition of the term pipeline for purposes of this exemption to delete the exclusion for surface facilities related to the operation of the underground facility.

The bill would also require a public agency to establish a process that would allow an applicant for a natural gas pipeline safety enhancement project, as defined, to elect to pay additional fees to be used by the public agency in determining whether to approve that project by entering into a contract with one or more 3rd parties to assist the public agency to perform the analysis. The bill would impose a state-mandated local program by imposing new duties upon local agencies.

~~(2) CEQA requires, for purposes of actions against the Public Utilities Commission, the writ of mandate to lie only from the Supreme Court to the commission.~~

~~This bill would require, in an action or proceeding against a public agency involving a natural gas pipeline safety enhancement project, the writ of mandate to lie only from the Supreme Court to the public agency.~~

~~(3)~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(4)~~

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) *On September 9, 2010, a 30-inch-diameter segment of an*
4 *intrastate natural gas transmission pipeline ruptured in a*
5 *residential neighborhood in the City of San Bruno. The rupture*
6 *caused an explosion and fire devastating a community and igniting*
7 *a call to action.*

1 ***(b) On January 2, 2011, the Public Utilities Commission (PUC)***
2 ***ordered Pacific Gas and Electric (PG&E), Southern California***
3 ***Gas (SoCalGas), San Diego Gas and Electric (SDG&E), and***
4 ***Southwest Gas to perform a comprehensive records review of their***
5 ***transmission pipelines and identify those that have not had their***
6 ***maximum allowable operating pressure established by pressure***
7 ***testing.***

8 ***(c) Federal law exempts from pressure test requirements***
9 ***pipelines placed in service prior to 1970. The National***
10 ***Transportation Safety Board, who has principle jurisdiction over***
11 ***the investigation into San Bruno, concluded that there is no safety***
12 ***justification for the grandfather clause exempting pre1970***
13 ***pipelines from the requirement for postconstruction hydrostatic***
14 ***pressure testing.***

15 ***(d) Pursuant to PUC order and section 958 of the Public***
16 ***Utilities Code, enacted by Assembly Bill 56 (Chapter 519, Statutes***
17 ***of 2011), gas corporations are required to prepare comprehensive***
18 ***pressure testing implementation plans to pressure test or replace***
19 ***all intrastate natural gas transmission pipelines as soon as***
20 ***practicable.***

21 ***(e) The scope of work to be accomplished within the***
22 ***implementation plans is unprecedented and will create thousands***
23 ***of jobs within the state.***

24 ***(f) The safe and expeditious completion of these pipeline safety***
25 ***enhancements is a state and public safety priority.***

26 ***(a)***

27 ***(g) It is a matter of statewide concern to achieve the timely***
28 ***completion of natural gas pipeline safety enhancements, including***
29 ***programs for maintenance and operation enhancements, and to***
30 ***contribute to the public's confidence in the safety of natural gas***
31 ***pipelines and their ongoing maintenance and operation.***

32 ***(b)***

33 ***(h) It is in the public interest to accelerate the permitting process***
34 ***for natural gas pipeline safety enhancements, including programs***
35 ***for maintenance and operation enhancements, and for permitting***
36 ***agencies to give these projects priority in processing permits.***

37 ***(c)***

38 ***(i) It is in the public interest to enable state agencies to better***
39 ***carry out their permitting responsibilities by providing applicants***
40 ***an option for enhancing available resources for permit processing.***

SEC. 2. Section 21063.5 is added to the Public Resources Code, to read:

21063.5. “Natural gas pipeline safety enhancement project” means an activity undertaken by a public utility as part of a program to enhance the safety of intrastate natural gas pipelines in accordance with a decision, rule, or regulation adopted by the Public Utilities Commission.

SEC. 3. Section 21080.21 of the Public Resources Code is amended to read:

21080.21. (a) This division does not apply to any project of either of the following:

(1) Up to one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline.

(2) Greater than one mile in length, but less than eight miles in length, within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline, if the activity does not take place along more than one mile at any one time.

(b) For purposes of this section, “pipeline” includes any valve, flange, meter, or other piece of equipment that is directly attached to the pipeline.

(c) If a project meets the requirements of paragraph (2) of subdivision (a), the person undertaking the project shall do the following:

(1) Notify, in writing, any public agency having *discretionary* permit and land use authority of the exemption of the project from this division no later than 10 days prior to undertaking the project, and thereafter proceed to secure all appropriate ministerial permits from the public agency.

(2) Comply with all conditions otherwise authorized by law, imposed by any state agency as part of any permit process, and otherwise comply with the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), the California Coastal Act of 1976

(Division 20 (commencing with Section 30000) of the Public Resources Code), and other applicable state and federal laws.

SEC. 4. Section 21100.2 of the Public Resources Code is amended to read:

21100.2. (a) (1) For projects described in subdivision (c) of Section 21065, each state agency shall establish, by resolution or order, time limits that do not exceed the following:

(A) One year for completing and certifying environmental impact reports.

(B) One hundred eighty days for completing and adopting negative declarations.

(2) The time limits specified in paragraph (1) shall apply only to those circumstances in which the state agency is the lead agency for a project. These resolutions or orders may establish different time limits for different types or classes of projects, but all limits shall be measured from the date on which an application requesting approval of the project is received and accepted as complete by the state agency.

(3) No application for a project may be deemed incomplete for lack of a waiver of time periods prescribed in state regulations.

(4) The resolutions or orders required by this section may provide for a reasonable extension of the time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

(b) If a draft environmental impact report, environmental impact report, or focused environmental impact report is prepared under a contract to a state agency, the contract shall be executed within 45 days from the date on which the state agency sends a notice of preparation pursuant to Section 21080.4. The state agency may take longer to execute the contract if the project applicant and the state agency mutually agree to an extension of the time limit provided by this subdivision.

(c) (1) A public agency shall establish a process that would allow a natural gas pipeline safety enhancement project applicant to elect to pay additional fees to be used by the public agency in determining whether to approve a natural gas pipeline safety enhancement project by entering into a contract with one or more third parties to assist the public agency to perform the analysis, consistent with Article VII of the California Constitution and Section 19130 of the Government Code and the charter of a

1 chartered city or county, as applicable. The public agency may,
2 but is not required to, offer a project applicant the option to pay
3 those fees and subject a project to this process.

4 (2) The amount of the fees charged by the public agency
5 pursuant to this subdivision shall be conditioned upon the natural
6 gas pipeline safety enhancement project applicant agreeing to that
7 amount and electing to proceed with the retention of a third party
8 pursuant to this subdivision.

9 (3) All fees paid by a natural gas pipeline safety enhancement
10 project applicant shall be used exclusively for analysis of that
11 applicant's application for certification.

12 ~~SEC. 5. Section 21168.6 of the Public Resources Code is~~
13 ~~amended to read:~~

14 ~~21168.6. In any action or proceeding under Sections 21168 or~~
15 ~~21168.5 against the Public Utilities Commission or in an action~~
16 ~~or proceeding against a public agency involving a natural gas~~
17 ~~pipeline safety enhancement project, the writ of mandate shall lie~~
18 ~~only from the Supreme Court to that commission or public agency.~~

19 ~~SEC. 6.~~

20 *SEC. 5.* No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 a local agency or school district has the authority to levy service
23 charges, fees, or assessments sufficient to pay for the program or
24 level of service mandated by this act, within the meaning of Section
25 17556 of the Government Code.

26 ~~SEC. 7.~~

27 *SEC. 6.* This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety within
29 the meaning of Article IV of the Constitution and shall go into
30 immediate effect. The facts constituting the necessity are:

31 In order to achieve the timely completion of natural gas pipeline
32 safety enhancements, including programs for maintenance and
33 operation enhancements, and to contribute to the public's
34 confidence in the safety of natural gas pipelines and their ongoing
35 maintenance and operation, thereby protecting public health and
36 safety, it is necessary for this act to take effect immediately.